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In reviewing the Office Action, we note that the cylindrical bead to which the Examiner points to in Hertrampf (the peripheral portion located directly above lead line 13) is actually a portion of the screwthread. The Applicant asserts that in contrast, the cylindrical bead in independent claims 1 and 20 is recited as being adjacent the top plate portion of the screw cap. Claims 1 and 20 further recite having a screwthread in addition to the cylindrical bead. These are separate elements. Although Hertrampf discloses a screwthread, this reference fails to disclose a cylindrical bead as is recited by claims.

Further, element 9 is not a sealing strip. As is clearly described in column 4, in particular in lines 13-21, member 9 only provides a stop 10 which makes contact with a mating stop 11 formed at (or by) the top end of the bottleneck 2. Further, it is mentioned that "in this manner the stop 10 and the mating 11 constrain an accurate and in particular a fixed position of the hinge formed by the cross-sectional slimming." This in turn means that stop 10 as being provided as a flat annular front face of member 9 may not be considered to be deformable, since in the latter case it would not be suited to constrain an accurate and in particular a fixed position of any member connected thereto.

Moreover, as may also be understood from the following description in column 4, in particular lines 30-54, member 9 and the front end 10 thereof are not at all considered to provide any sealing action. Instead, there is clearly described that only projection 5 of sealing element 4 provides for a sealing action and that this sealing action is to be reduced if an over-pressure occurs which bulges the center portion of the top plate upwardly, thereby tilting sealing member 4 inward due to the hinge action of slim portion 8. Thereupon, the over-pressure may be reduced if the contact between protection 5 and inside surface 6 of the mouth of the neck is reduced. It is to be appreciated that this design feature of Hertrampf would be defeated if member 9 could be used to provide for a sealing action as suggested by the

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Examiner. However, in view of the Examiner's suggested alternative use of element 9 which is neither disclosed nor suggested, and which would alter the intended use of element 9 such that the cap of Hertrampf would be unsuitable for its intended purpose, it cannot be stated that an appropriate amount of pressure would deform member 9 enough to cause a seal. Applying additional pressure would only instead intensify the contact pressure between faces 10 and 11 of stop member 9 and the front face of the neck mouth.

Accordingly, each and every element as set forth in the claims are not disclosed in Hertrampf as there is no cylindrical bead and no sealing strip outside the inner sealing element (the sealing olive).

Claim 17 is rejected under 35 USC 103(a) as being unpatentable over Hertrampf in view of Dai (US 6,044,995). Dai is cited for disclosing a tamper band, and therefore does not correct the above noted deficiencies of Hertrampf. Accordingly, this rejection is also traversed, as the combination of references would not produce the recited invention of claim 17.

The applicant notes the remaining prior art cited in the official action. As none of that additional art is applied by the Examiner against the claims of this application, the applicant is not providing any comments concerning the same at this time.

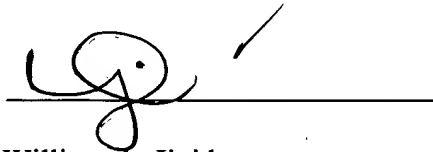
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The applicant respectfully submits that, in view of the above amendments and remarks, the application is now in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

KILLWORTH, GOTTMAN, HAGAN
& SCHAEFF, L.L.P.

By

A handwritten signature in black ink, appearing to be 'W. A. Jividen', is written over a horizontal line. There is a small checkmark to the right of the signature.

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